

Sandown Planning Board  
Minutes  
October 19, 2010

**Date:** October 19, 2010

**Place:** Sandown Town Hall

**Members Present:** Donna Green, Chairman, Mark Traeger, Vice Chairman, Matt Russell, Marilyn Cormier, Steve Meisner, Matt Russell, Tom Tombarello, Ex-Officio, and Ed Mencis (arrived at 7:07 p.m.)

**Also present:** Bette Patterson, Administrative Assistant and Town Engineer Steve Keach, Alternate Ernie Brown and Alternate Fred Daley (arrived at 7:08 p.m.)

**Opening:** Chairman Green opened the meeting at 7:00 p.m. The board agreed to set the administrative issues aside until after the presentation by Julie LaBranche.

**Rockingham Planning Commission – Julie LaBranche, Senior Planner, Rockingham Planning Commission**

Vice Chairman Mark Traeger stated that Ms. LaBranche is here to talk about the Bio-Inventory Project and assistance with updating the Master Plan. This is part of the grant from the I-93 widening project which is a co-operative effort between the Towns of Danville, Fremont and Sandown. Each Town received \$10,000.00 to spend on a project that went across all three Towns. The action plan that the three towns agreed to is the protection of the Exeter River Corridor. Part of Sandown's grant money goes to the Rockingham Planning Commission for help with updating the Master Plan. Some of the money is used for community outreach. An example of this are the posters prepared by Rockingham Planning Commission that are on display in the Town Hall. He added that Ms. LaBranche would also be discussing the development of an open space plan. It would not only identify existing open space in Sandown, it would also identify the high value open space. This information will help the board make sure projects are designed with open space in mind.

Ms. LaBranche met with the board to discuss the Exeter River Corridor Bio-Inventory Project. The Towns of Danville, Fremont and Sandown, in partnership with the Rockingham Planning Commission and Mark West of West environmental, Inc., are working collaboratively on a multi-part project to promote and encourage protection of wildlife and habitat within the Exeter River Corridor and Watershed.

Ms. LaBranche gave the board members an outline of the Wildlife and Habitat Chapter for the Master Plan and a draft notification letter that will be sent to involved landowners in all three towns. The board may make comments or suggest changes to the letter before it is sent out. The letter requests permission from landowners for Mark West of West Environmental, Inc. and his

43 staff to enter property bordering the Exeter River to collect the necessary data for mapping and  
44 evaluation purposes and to photograph features, plants and wildlife observed. A phone call to  
45 landowners will also be made to follow up on the letters. These notification letters will be sent  
46 out as soon as possible because the field work needs to be completed before it snows.

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48 Ms. LaBranche stated the Open Space Plan typically follows the I-93 CTAP methodology that  
49 was developed for the open space plans for all the CTAP boarder communities. This will be an  
50 abbreviated process because we only have till January 2011 to complete the task. There needs to  
51 be between four and ten people participating in preparing the report. There will be a series of  
52 meetings, probably one a month, through January to complete the report.

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54 Vice Chairman Mark Traeger asked if the Conservation Commission could take on this task and  
55 he recommended that Ms. LaBranche contact the Chairman Brian Butler. Mr. Traeger provided  
56 her with the contact information.

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58 Ms. LaBranche stated that the first task is to select the town resources that are critical in helping  
59 to preserve open space. The open space plan is a separate task from the Exeter River Corridor  
60 project, however, it's all rolled into the grant project. The project includes educating the public  
61 and other boards through outreach programs. Fremont has already held a public event educating  
62 people on this project. The notification letter is a big part of the outreach. Ms. LaBranche  
63 discussed the plan to hold informational meetings for the public and creating a power point that  
64 could be put on the town's web site for people to view.

65

66 In terms of helping with the Master Plan, Ms. LaBranche intends to meet with the Conservation  
67 Commission to discuss the priorities for the wildlife and habitat chapter for the Town of  
68 Sandown.

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70 Fred Daley stated the Master Plan Committee plans to evaluate the current Master Plan and  
71 involve department heads in the process. He stated that there is a Natural Resources chapter in  
72 the current Master Plan document, however, there is no wildlife and habitat section. This section  
73 may be able to be incorporated into the Natural Resources Chapter. He discussed the timeline  
74 that the Master Plan Committee is working on. Community outreach is also a part of the  
75 process.

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77 Ms. LaBranche reviewed her suggested content of the wildlife and habitat chapter with the  
78 board. She stated this is only a baseline for use in creating this chapter. All the information is  
79 based on existing data.

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81 Chairman Green summarized that the Master Plan Advisory Committee needs to approve  
82 moving the draft wildlife and habitat chapter to the Conservation Commission for review and to  
83 work in conjunction with the conservation commission in creating this chapter for the Master  
84 Plan.

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86 The board also discussed working with the new Local Energy Committee and the possibility of  
87 developing an Energy chapter for the Master Plan.

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89 Ms. LaBranche explained that this whole project is a cooperative effort with the two other towns.  
90 The Wildlife and Habitat Chapter will appear very similar for all three towns. There will a  
91 common thread through each town's chapter resulting in a regional theme. When the Open  
92 Space Plan is done for each town, the Rockingham Planning Commission will create a map for  
93 all three towns.

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95 The board thanked Ms. LaBranche for coming. Ms. LaBranche will return with a draft for the  
96 board to review.

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### 99 **Kasher Corp site – Possible Wetland Violation**

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101 Steve Keach distributed and reviewed the following memo (dated 10/19/10) to board  
102 members:

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104 *At the request of your Board's Vice-Chairman we have researched the status of State and local*  
105 *wetland permitting for the subject land development project in order to determine if appropriate*  
106 *permitting is in place for the construction of a certain construction access drive presently*  
107 *situated at Sta. 2+80± Townhouse Lane within the subject senior housing development. This is*  
108 *what we learned:*

109 1. *Based upon input from Steven R. Chabot from this office, we understand the current*  
110 *construction entrance driveway crosses an area of jurisdictional wetland via a*  
111 *temporary causeway installed in the fall of 2007. Mr. Chabot recalls that at the time of*  
112 *the project's pre-construction conference, he learned that it was the Kasher*  
113 *Corporation's intent to initially install the current causeway as a temporary wetland*  
114 *crossing in order to facilitate site access for both general site construction as well as*  
115 *installation of a 24-foot wide Con-Span Bridge structure, which would ultimately*  
116 *replace the causeway. Mr. Chabot further reports that despite the fact that the*  
117 *causeway has been maintained for temporary site access through this date, he*  
118 *understands it remains Kasher's intention to move forward with installation of the*  
119 *approved Con-Span Bridge and removal of the temporary causeway in the future.*

120 2. *A review of available records identifies the following milestones relative to project*  
121 *permitting:*

122 • *Plans initially submitted to the Sandown Planning Board and Conservation*  
123 *Commission for approval of both a Conditional Use Permit (CUP) pursuant to*  
124 *Article I – Part B of the Zoning Ordinance and Site Plan approval impacted an*  
125 *estimated 9,000 square feet of jurisdictional wetland. The wetland crossing in*  
126 *question was identified as "Location A" on all application materials related to*

- 127                    *State and local wetland permitting efforts throughout the design and approval*  
128                    *period.*
- 129                    • *On January 13, 2005 the Sandown Conservation Commission (SCC) voted in*  
130                    *favor of providing the Sandown Planning Board (SPB) with a favorable*  
131                    *recommendation in regard to Kasher's application for CUP approval (see SCC*  
132                    *correspondence dated January 17, 2005). Noteworthy is the fact that design*  
133                    *modifications undertaken since the date of initial CUP application submittal*  
134                    *caused the total area of wetland impact to be reduced from 9,000 to 4,844*  
135                    *square feet. A significant portion of this reduction appears to have occurred as*  
136                    *a result of the replacement of a simple culvert and fill embankment crossing at*  
137                    *Location A with the planned Con-Span Bridge. The cited SCC correspondence*  
138                    *of January 17, 2005 suggests the Commission's favorable recommendation was*  
139                    *based upon the understanding that bridge construction would impact*  
140                    *approximately 2,260 square feet of wetland at Location A.*
  - 141                    • *On January 18, 2005 the SPB accepted the SCC's recommendation and*  
142                    *approved Kasher's CUP application for a total of 4,844 square feet of wetland.*
  - 143                    • *Subsequent to issuance of the January 18, 2005 CUP, Kasher's design team*  
144                    *undertook a significant redesign of the project. As a project containing in excess*  
145                    *of 25 dwelling units, Section 9.3.1 of the Subdivision Regulations require two*  
146                    *means of access to the project site. Kasher's initial plans called for secondary*  
147                    *access to be achieved via an interconnection with the abutting Vantage Point*  
148                    *senior housing development. However, the owner of that approved development*  
149                    *was reluctant to permit the interconnection, which left the Kasher project with*  
150                    *only a single means of access. Since the SPB was reluctant to approve a waiver*  
151                    *of Section 9.3.1, Kasher successfully negotiated an easement over land owned by*  
152                    *the northerly abutter (Bishop) and modified the site plan accordingly. As a*  
153                    *result of this redesign, the SPB directed Kasher to file an amended CUP*  
154                    *application. On January 12, 2006 the SCC voted to forward a favorable letter to*  
155                    *the SPB relative to the amended CUP application (see SCC correspondence*  
156                    *dated March 01, 2006). On February 15, 2006 the SPB approved the amended*  
157                    *CUP application, which further reduced the overall area of wetland impact by*  
158                    *1,933 square feet to 2,911 square feet, including 460 square feet at Location A,*  
159                    *475 square feet at Location B and 1976 square feet at Location C. According to*  
160                    *Kasher's Consultant, Timothy P. Lavelle, the 460 square feet of impact at*  
161                    *Location A represents the extent of impact required to construct the temporary*  
162                    *site driveway (that is in place at this time), which is necessary to provide access*  
163                    *for cranes and other motorized equipment need to set the proposed Con-Span*  
164                    *Bridge. This same 460 square foot area at Location A is depicted as a "shaded*  
165                    *area" on Sheet 11 of 27 of the final project plans.*
  - 166                    • *On February 15, 2007 the NHDES Wetlands Bureau issued Wetlands and Non-*  
167                    *Site Specific Permit No. 2006-02981 for the project (copy attached). It is to be*

168 *noted that the NHDES permit authorizes up to 4,711 square feet of wetland*  
169 *impact, or 1,800 square feet more than permitted by the SPB. Again, according*  
170 *to Mr. Lavelle, the NHDES Permit did not reflect subsequent design changes*  
171 *made at the request of the SCC and SPB, which reduced the extent of impact*  
172 *proposed at Location A from 2,260 to 460 square feet. NHDES Permit No.*  
173 *2006-02981 remains valid through February 15, 2012.*

174 *In summary, it appears all required State and local wetland permits for the extent of work*  
175 *completed to date, including installation of the subject temporary construction drive, were*  
176 *properly issued prior to commencement of work and remain current. Correspondingly, it is this*  
177 *writer's opinion that no violation of State Rules or the local Zoning Ordinance has occurred as a*  
178 *result of the construction and maintenance of the current temporary construction drive. That*  
179 *said, it is also this writer's opinion that all work at Location A, including installation of the*  
180 *approved Con-Span Bridge and removal of temporary wetland impacts must be fully completed*  
181 *no later than February 15, 2012.*

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183 *We trust the Board will find the content of this memorandum responsive to the Vice Chairman's*  
184 *recent request. As always, please contact the writer if you should have specific questions or*  
185 *further instructions related to this matter.*

186 Mr. Keach stated he would submit a report when Steve Chabot verifies that the footprint of the  
187 impact appears to be less than or equal to 460 square feet which is what was originally permitted  
188 for the temporary disturbance in preparation for the bridge.

#### 189 **Proposed Regulation Changes and Proposed Zoning Changes for 2011**

190 Chairman Green stated that due to the lateness of the hour, the proposed changes that Mr.  
191 Traeger drafted will be addressed at the next meeting. She requested that board members review  
192 the draft prior to the meeting.

193 Chairman Green stated that Mrs. Cormier has requested that a warrant article be drafted for the  
194 purpose of funding the outreach money for update of the Master Plan.

195 Ed Mencis asked if we will have money left in our budget that we can request that a certain  
196 amount be rolled over to next year for this purpose.

197 Fred Daley stated that in prior years the funding for the Master Plan came from the planning  
198 board budget.

199 After discussion, the board agreed not to submit a warrant article for updating the Master Plan.  
200 The board will request any remaining money in the planning board 2010 budget be rolled over to  
201 the 2011 budget for the purpose of updating the Master Plan.

202 Chairman Green stated that Chief Gordon requested the board consider a noise ordinance.

203 Vice Chairman Traeger stated that Chief Gordon withdrew his request earlier today. He noted  
204 that there were three citizens at this meeting that are interested in a noise ordinance.

205 Steve Keach commented that he has done a noise ordinance for Atkinson, however, that was  
206 designed to assist the town in being pro-active for non-residential land use through site plan  
207 review.

208 Tina Buckley, Showell Pond Road, explained that she lives on the pond and in the winter the  
209 snowmobiles run on the pond all day and the noise is unbearable.

210 The board agreed that, although this is a problem, a zoning ordinance would not be able to assist  
211 with this type of situation. A noise ordinance that would limit decibels or decreasing speed  
212 limits on the pond would have to be submitted in the form of a municipal ordinance which is  
213 under the prevue of the Board of Selectmen. The property owners were advised to bring their  
214 concerns to the Board of Selectmen.

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### 216 **Approval of Minutes:**

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#### 218 **October 5, 2010**

219 MOTION: Matt Russell made a motion to approve the minutes of October 5, 2010 as amended.  
220 Mark Traeger seconded. Marilyn Cormier abstained. Steve Meisner, Matt Russell, Donna  
221 Green, Mark Traeger, Tom Tombarello and Ed Mencis voted in favor of the motion. MOTION  
222 PASSED.

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#### 224 **September 21, 2010**

225 MOTION: Matt Russell made a motion to approve the minutes of September 21, 2010 as  
226 amended. Mark Traeger seconded. Marilyn Cormier, Steve Meisner and Tom Tombarello  
227 abstained. Matt Russell, Donna Green, Mark Traeger, and Ed Mencis voted in favor of the  
228 motion. MOTION PASSED.

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#### 230 **September 7, 2010]**

231 MOTION: Marilyn Cormier made a motion to open review of the September 7, 2010 minutes.  
232 Mark Traeger seconded. Voted unanimously in the affirmative.

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234 MOTION: Marilyn Cormier made a motion to approve the newly amended minutes of  
235 September 7<sup>th</sup>, 20010. Matt Russell seconded. Ed Mencis abstained. Steve Meisner, Matt  
236 Russell, Donna Green, Mark Traeger and Tom Tombarello voted in favor of the motion.  
237 MOTION PASSED.

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### 239 **Correspondence**

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241 **Request from Board of Selectmen for Annual Report** - The board agreed that the new surety  
242 process, master plan update, regulation changes, grant money and newly accepted roads should  
243 all be included in the planning annual report. Chairman Green requested that members of the  
244 board e-mail her with any ideas.

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**Attorney Ratigan Invoice**

**MOTION:** Mark Traeger made a motion to pay the invoice for Attorney Ratigan for services rendered on 8/18 and 8/23 in the amount of \$245.00. Matt Russell seconded. Donna Green and Marilyn Cormier voted against the motion. Steve Meisner, Matt Russell, Mark Traeger, Tom Tombarello and Ed Mencis voted in favor of the motion. MOTION PASSED.

**Other Business:**

Due to the general election scheduled for November 2<sup>nd</sup>, the planning board agreed to hold the next meeting of the planning board on an alternate date. Administrative Assistant Patterson will research the availability of space and notify the board.

**Adjournment**

**MOTION:** Mark Traeger made a motion to adjourn. Matt Russell seconded. Voted unanimously in the affirmative. MEETING ADJOURNED AT 10:22 p.m.

Respectfully submitted,

Bette Patterson, Administrative Assistant